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IN THE

Supreme Court of the United States

OCTOBER TERM, 1963

NO. 549

ESTATE OF PETER CHRISTOFF, deceased.

On Writ of Certiorari to the Supreme Court of the Commonwealth of Pennsylvania

PETITIONER'S REPLY BRIEF

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Respondent argues at page 8 of his brief that the Greek counsel though bearing the "picturesque title" of "judge of introduction" performed no judicial function. The record discloses otherwise.

Respondent's own expert witness testified that the law under which the consul was appointed judge of introduction speaks of "judicial acts to be performed by consuls." (R. 190a). According to respondent's expert, the term "judge of introduction" describes "a reporter who makes a judicial act and draws up a report." (R. 191a). The same term was repeatedly used to describe the Greek court's own reporting judge, (R. 193a) who concededly was a judge (R. 194a, 540a, 546a-547a, 552a-553a, 559a, 564a, 566a).

The Greek court in its interlocutory order noted that "Art. 1576 of the Civil Code (R. 481a, 574a) according to which adoption is performed by a court decree and adopter must personally appear and declare his consent." (R. 554a). The Greek Consul was appointed judge of introduction "so that petitioner (decedent) may personally appear before him and declare his consent to the adoption." (R. 553a). "Such judicial acts and duties" could be assumed by the Greek consul in the opinion of the Greek Court (R. 555a).

It is clear from the testimony and documents on which respondent relies that the Greek consul was intentionally appointed as a judge and purported to exercise judicial functions in this country in an effort to comply with the requirement that an adopting parent must (1) appear personally in court and (2) give his consent to the adoption. However, the Greek consul had no right to exercise judicial functions in the United States and his acts were void for all purposes (pp. 8-9 of petitioner's writ herein).

At page 2 of his brief respondent refers to pleadings submitted to the Greek court in which it was alleged among other things that decedent was ill (R. 539a), that he had never married, (R. 538a), and that upon being adopted respondent would enter the United States under strict immigration laws which permitted immigration only after adoption (R. 544a). These allegations do not correspond with the known facts: Decedent was not ill (R. 94a, 241a, 270a, 276a, 338a); he had been married and was divorced (R. 476a-477a); and the adoption would not and did not assure respondent's entry into the United States (R. 580a-581a). The inaccuracies in the

pleadings were not attributable to decedent, who neither authored nor saw those writings (R. 91a-92a, 328a-330a), and point up the hazards and uncertainties inherent in proxy transactions. In this case, it is not certain that decedent had adoption in mind or that respondent, rather than respondent's brother (R. 418a, 421a, 434a) or respondent's father (R. 71a, 90a) or petitioner (R. 455a-457a), was the intended adoptee.

The petition for writ of certiorari should be granted.

Respectfully submitted,

THOMAS A. LAZAROFF,
Counsel for Petitioner

November, 1963.